

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1464V

Filed: October 30, 2019

UNPUBLISHED

HEIDI LEVISEE,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.*

*Alexis B. Babcock, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES**<sup>1</sup>

**Corcoran**, Chief Special Master:

On September 24, 2018, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a left shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccination received on October 10, 2016. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 27, 2019, a ruling on entitlement was issued, finding petitioner entitled to compensation for her SIRVA. On October 29, 2019, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$126,283.01 (comprised of \$125,000.00 for pain and suffering and \$1,283.01 for past lost wages).

<sup>1</sup> I intend to post this decision on the United States Court of Federal Claims' website. **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access. Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Proffer at 1-2. In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award petitioner a lump sum payment of \$126,283.01 (comprised of \$125,000.00 for pain and suffering and \$1,283.01 for past lost wages) in the form of a check payable to petitioner, Heidi Levissee.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.



**II. Form of the Award**

The parties recommend that compensation provided to petitioner should be made through a lump sum payment of **\$126,283.01**, in the form of a check payable to petitioner.<sup>1</sup> Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

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Torts Branch, Civil Division

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*s/ Alexis B. Babcock*  
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Dated: October 29, 2019

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.